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Pro Se Claimant and

Party to California Public Utilities Commission Proceeding I.19-09-016 to Consider the Ratemaking and Other Implications of a Proposed Plan for Resolution of Voluntary Case filed by Pacific Gas and Electric Company, pursuant to Chapter 11 of the Bankruptcy Code, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Corporation and Pacific Gas and Electric Company, Case No. 19- 30088.

Party to California Public Utilities Commission Proceeding I.15-08-019 to Determine whether Pacific Gas and Electric Company and PG&E's Corporation's Organizational Culture and Governance Prioritizes Safety

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION,

-and-

PACIFIC GAS AND ELECTRIC
COMPANY,

Debtors.

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

** All papers shall be filed in the lead case,
No. 19-30088 (DM)*

Bankr. Case No. 19-30088 (DM)
Chapter 11
(Lead Case)
(Jointly Administrated)

**WILLIAM B. ABRAMS OBJECTION
TO DEBTORS PLAN OF
REORGANIZATION PURSUANT TO
11 U.S.C. §§ 1129(A) [DKT. 6320]**

Hearing: Telephonic Appearances Only

Date: May 27, 2020
Time: 10am PT
Place: Courtroom 17
450 Golden Gate Ave., 16th Floor
San Francisco, CA, 94102

Judge: Hon. Dennis Montali

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ARGUMENT: Clear Violations of 11 U.S.C. §§ 1129(a)(3)

3. Section 1129(a)(3) requires the plan to have been “proposed in good faith and not by any means forbidden by law”¹ While “good faith” is not defined within the Code, it is generally interpreted in the context of section 1129(a)(3) to mean that there is a “reasonable likelihood that the plan will achieve a result consistent with the objectives and the purposes of the Bankruptcy Code.”² We must keep in mind that a plan is proposed in good faith “only if it has a legitimate and honest purpose to reorganize the debtor.”³ However, this plan was developed and devised to provide short-term payouts for investors to the detriment of the Debtors and cloaked in a seemingly honest plan to settle with victims and reorganize the company.

4. Indeed, Section 1129(a)(3) “speaks more to the process of the plan development than to the content of the plan.”⁴ Given this, we must consider how the plan development process inside and outside the courtroom was leveraged to ensure short-term payouts for parties to this proceeding rather than for the overall health of the Debtors as will be described in later sections of this objection. This was stated very pointedly by Skikos, Crawford, Skikos and Joseph, counsel in a April 23, 2020 townhall and in a subsequent letter obtained and publicly posted by the Watts Guerra and co-counsel “Fire Settlement Facts” website stating **“Unfortunately, the hedge funds that have hijacked these bankruptcy proceedings (all to their significant financial benefit), did not care about your concerns BEFORE the coronavirus pandemic, nor do they care about them now.”**⁵ I greatly appreciate the Skikos Law Firm for rightly calling out these injustices and they should be commended for their advocacy and this truthful representation to their clients. However, just because these views were vehemently and consistently expressed by many parties only outside the courtroom, it should not preclude them from being considered within this plan confirmation decision. In consideration of these violations, the court should consider the totality of the circumstances with a

¹ 11 U.S.C. § 1129(a)(3).

² See *In re Chemtura Corp.*, 439 B.R. 561, 608 (Bankr. S.D.N.Y. 2010) (Gerber, J.); see also *In re Breitburn Energy Partners LP*, 582 B.R. 321, 352 (Bankr. S.D.N.Y. 2018) (Bernstein, J.); *Matter of Madison Hotel Assocs.*, 749 F.2d 410, 424-26 (7th Cir. 1984).

³ *Chemtura Corp.*, 439 B.R. at 608 (internal quotation omitted); see 20 *Bayard Views*, 445 B.R. at 95-96.

⁴ See *Breitburn Energy Partners*, 582 B.R. at 352 (quoting *Chemtura Corp.*, 439 B.R. at 608).

⁵ See Watts Guerra, Hansen and Miller Law and the Law Office of Joseph Earley “Fire Settlement Facts” website <https://firesettlementfacts.com/> as “Skikos, Crawford, Skikos & Joseph Email”

1 “fact-intensive, case-by-case inquiry.”⁶ However, when these issues were brought to light by TCC
2 resignations, news reports and in the hearing on May 12, 2020 there was no call by parties for
3 transparency or disclosure related to these issues. The integrity of the plan process has been
4 compromised and therefore the integrity of the plan of reorganization itself has been compromised in
5 direct violation of Section 1129(a)(3).

6 5. Moreover, in consideration of Section 1129(a)(3) the court should also take a close
7 look at the vote solicitation process and not necessarily on the substantive plan provisions.⁷ As the
8 court takes a “good faith inquiry” of the voting process relative to plan confirmation it should
9 consider the “*William B. Abrams Motion to Designate Improperly Solicited Votes Pursuant to*
10 *§§1125(B) and §§1126(E) and Bankruptcy Rule 2019*” [Dkt. 6799], as well as the “*Notice of Plan*
11 *Voting Procedure Irregularities*” [Dkt. 7069] and the “*Second Notice of Voting Procedure*
12 *Irregularities*” [Dkt. 7186]. After a look at the pervasive bad-faith solicitation practices documented
13 in these papers and the manner in which this case has been “hijacked” as a vehicle to ensure short-
14 term benefits for investors rather than to restore the health of the company, the court must conclude
15 significant violations of Section 1129(a)(3).

16 **ARGUMENT: Clear Violations of 11 U.S.C. §§ 1129(a)(11)**

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18 6. Section 1129(a)(11) provides, “The court shall confirm a plan only if all of the
19 following requirements are met: Confirmation of the plan is not likely to be followed by the
20 liquidation, or the need for further reorganization, of the debtor or any successor to the debtor
21 under the plan, unless such liquidation or reorganization is proposed in the plan.”⁸ It is clear
22 from an analysis of the plan and the risk profile of the company that near-term liquidation is highly
23 likely and there is no mention of this path anywhere in the proposed plan of reorganization. Indeed,
24 the plan is patently unconfirmable due to a lack of financial viability as a plan for reorganization and
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27 ⁶ Solow v. PPI Enters. (U.S.), Inc. (In re PPI Enters. (U.S.), Inc.), 324 F.3d 197, 211-12 (3d Cir. 2003); see Chemtura
28 Corp., 439 B.R. at 608 (“The bankruptcy judge is in the best position to assess the good faith of the parties’ proposals.”)
(internal quotation omitted).

⁷ 20 Bayard Views, 445 B.R. at 95-96.

⁸ Id. § 1129(a)(11).

1 unconfirmable on its face given its complete failure to address feasibility standards required by
2 Section 1129(a)(11).

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4 7. The misuse and abuse of the victim trust and registration rights agreement to withhold
5 key information from victims (trust funding dates, stock dilution terms, stock-sale prioritization, etc.)
6 and then asking victims to vote on a plan without clear dates or dollars is manifestly unjust. It allows
7 the short-term interests of entrenched shareholders and bondholders to supersede the interests of
8 victims to achieve a fair settlement. More importantly and relevant to Section 1129(a)(11) is that the
9 plan of reorganization with these provisions gives investors securitization and exit strategies to
10 abandon the Debtors when risks from PG&E wildfires and/or further PG&E unlawful activities drive
11 the Debtors into insolvency within months after an exit from bankruptcy. Indeed, cementing the exit
12 strategy for entrenched company investors is the primary goal of this plan and NOT the health of the
13 Debtors.

14 8. Mr. Johnson, CEO of Pacific Gas and Electric Corporation (“PG&E”) stated under
15 cross examination at the California Public Utilities Commission on February 25, 2020 that his
16 expectation was that hedge funds would exit the stock and that “What we are trying to do is set up a
17 situation where we have traditional, usual way utility investors come back into the stock...”⁹ Later
18 that week on February 28, 2020 Mr. Wells, CFO of PG&E stated under cross examination that his
19 expectation was that after bankruptcy exit “the issuer rating will be as phrased here sub-investment
20 grade or junk.”¹⁰ This notion that PG&E will be able to attract “traditional utility investors” with the
21 predicted exponentially higher risk or wildfires, COVID and a company with a junk rating is a
22 fantasy at best and at worst an investor ploy to provide cover for a company sell-off this summer.
23 Victims with their 21% shareholder stake will be forced to hold the stock during these highly risky
24 times to enable a clear pathway for other majority shareholders to sell. Given this “Plan A” for the
25 equity investors, the previously financially-exposed “Senior Unsecured Noteholders” successfully
26 negotiated securitization and asset liens for their investments before they dropped their competing
27 plan. Simply stated, this win-win short-term exit strategy for equity and debt is a lose-lose strategy

27 ⁹ California Public Utilities Commission, I19-09-016 Evidentiary Hearing Transcript, February 25, 2020, page 99 (lines
28 27-28) <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M327/K740/327740877.PDF>

¹⁰ California Public Utilities Commission, I.19-09-016 Evidentiary Hearing Transcript, February 28, 2020, page 604
(lines 21-22) <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M328/K691/328691064.PDF>

1 for victims, the Debtors and the public. More importantly for this proposed plan of reorganization is
2 that this strategy embedded in the plan is in direct violation of Section 1129(a)(11).

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4 9. Specifically, in order “to demonstrate feasibility, the plan proponent must establish
5 that there will be sufficient cash flow to fund the plan and maintain operations according to the
6 plan.”¹¹ There is absolutely no way that the Debtors will have sufficient cash flow this summer as
7 investors exit the stock and they are unable to increase rates due to AB1054 “ratepayer neutral”
8 provisions. This situation will not only lead the company into insolvency but it will serve to
9 revictimize PG&E victims and the public. There are some unrealistic calculations that because of
10 COVID it is better to deal with these insolvency issues this summer but I do not support that path and
11 it is not in keeping with Section 1129(a)(11). The Eleventh Circuit has recently explained that for a
12 plan to satisfy the feasibility test, a court must determine that the plan is not likely to “be followed by
13 Chapter 7 liquidation, a Chapter 11 liquidation, or a Chapter 11 classic reorganization.”¹² There is
14 NO reasonable or rational look at the strategic moves of investors during this bankruptcy proceeding,
15 the risk profile of PG&E and the external risks posed by COVID and this wildfire season and come to
16 the conclusion that this feasibility test is satisfied.

17 10. The purpose of the feasibility test is to “ensure that a bankruptcy court confirms a plan
18 only if it finds that the plan creates a ‘reasonable assurance of commercial viability.’”¹³ Additionally,
19 “the feasibility standard requires a court to consider whether the plan offers a reasonable probability
20 of success.”¹⁴ When the savvy equity investors, bondholders and others evaluate the risks and
21 position themselves to exit the stock and sell off should the court take the diametrically opposite
22 position and reasonably predict success? The court should not take that position and expose victims
23 and the public to these short-term eventualities. This would be an imprudent path for the court and
24 not in keeping with bankruptcy law. More importantly to this claimant, it will endanger the lives and
25 the livelihoods of my family and our communities and thus will impair future victim claimants.

26 ¹¹ Barbara J. Houser et al., Disclosure Statements: Confirmation and Cramdown of Chapter 11 Plans, ST005 A.L.I.-
A.B.A. 2177, 2205 (2011).

27 ¹² United Mine Works of Am. Combined Benefit Fund v. Toffel (In re Walter Energy, Inc.), 911 F.3d 1121, 1155 (11th
Cir. 2018).

28 ¹³ Id.


¹⁴ Two Streets., 597 B.R. at 317. (Bankr. S.D. Miss. 2019)

1
2 **CONCLUSION**
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4 11. The proposed plan of reorganization is manifestly unjust for victims, based upon bad-
5 faith negotiations and vote solicitation processes and flatly unconfirmable based on Section 1129.
6 This is the basis of my objection. However, it is the detrimental effects of this plan on victims and
7 the public that has compelled me to take this position and object to the plan. Myself and certain other
8 parties like those that resigned from the TCC have been working to improve the plan at each and
9 every stage of this proceeding for victims, the public and the Debtors. These three courageous
10 members of TCC understood that the bankruptcy process had been compromised irreparably which is
11 why they resigned on moral ground. Likewise, I cannot support a plan that victimizes current and
12 future PG&E wildfire survivors and exposes the company and California to unacceptable risks at the
13 hands of investors and parties to this proceeding who see the risks but would prefer to cash out rather
14 than work collaboratively in good-faith work towards just ends. I implore the court to consider these
15 implications and deny this plan from promoting a dire reality for the company, victims and the
16 public.

17 Dated: May 15, 2020
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20 Respectfully submitted,

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23 William B. Abrams

24 Pro Se Claimant
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